

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAN RAMIREZ and ERIKA RAMIREZ,
~~husband and wife~~ an individual,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant.

No. 2:21-cv-00636

~~[PROPOSED]~~ FIRST AMENDED
COMPLAINT FOR DAMAGES

Plaintiffs Jan Ramirez and Erika Ramirez, ~~husband and wife~~, brings this complaint under the Federal Tort Claims Act, 28 U.S.C. §2674. Plaintiffs alleges as follows:

I. PARTIES

1.1 This is a case arising out of bodily injuries caused by a United States Marshall Service vehicle when it struck Plaintiff Jan Ramirez while he was riding his bicycle in Seattle, Washington.

1.2 At all relevant times, Plaintiffs Jan Ramirez and Erika Ramirez were husband and wife and were was a residents of Bainbridge Island, Washington.

1.3 The Defendant is the United States of America.

~~[PROPOSED]~~ FIRST AMENDED
COMPLAINT FOR DAMAGES - 1

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1 1.4 At all times material hereto, Jeffrey Hamilton was an employee of and acting
 2 in the course and scope of his employment within the United States Marshall Service, an
 3 agency of the Defendant United States of America.

4 **II. JURISDICTION, VENUE & SERVICE**

5 2.1 This Court has jurisdiction over parties pursuant to 28 U.S.C. §1346(b),
 6 commonly known as the Federal Tort Claims Act ("FTCA").
 7

8 2.2 Venue is proper in the United States District Court for the Western District of
 9 Washington under 28 U.S.C. §1402(b) as the United States of America is a Defendant and
 10 Plaintiffs resides in this district and ~~have their~~ has his domicile in this district. Further, venue
 11 is proper in this district pursuant to 28 U.S.C. §1391(e) and §1402(b) as the United States is a
 12 Defendant and a substantial part of the events or omissions giving rise to the claim occurred in
 13 this district.
 14

15 2.3 The United States of America may be served with process in accordance with
 16 Rule 4(i) of the Federal Rules of Civil Procedure by serving a copy of the Summons and of the
 17 Complaint on the United States Attorney Tessa M. Gorman, United States Attorney for the
 18 Western District of Washington, by certified mail, return receipt requested at his/her office,
 19 United States Attorney, 700 Stewart Street, Suite 5220, Seattle, Washington, 98101-1271, to
 20 the attention of the Civil Process Clerk, and by serving a copy of the Summons and Complaint
 21 on Merrick Garland, Attorney General for the United States, by certified mail, return receipt
 22 requested, at the U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, D.C.
 23 20530-0001, to the attention of the Civil Process Clerk.
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III. LIABILITY OF THE UNITED STATES

3.1 This case is commenced and prosecuted against the United States of America to and in compliance with 28 U.S.C. §§2671-2680, the FTCA. Liability of the United States is predicated specifically on 28 U.S.C. §2674 because the personal injuries and resulting damages of which the complaint is made were proximately caused by the negligence, wrongful acts and/or omissions of employees and/or agents of the United States of America working for the United States Marshall Service, while acting within the scope of their office, employment, and/or agency.

3.2 The United States Marshall Service is an agency of the United States of America. The United States of America, through its agency, the United States Marshall Service, at all material times staffed the United States Marshall Service, its facilities and vehicles with its agents, servants and employees.

3.3 At all material times, all persons involved in supervising and operating the United States Marshall Service vehicle in question were agents, servants or employees of the United States of America or its agency, and were at all material times acting within the course and scope of employment.

3.4 On information and belief, at the time of the collision that is the subject of this lawsuit, United States Marshall Service employee Jeffrey Hamilton was acting within the course and scope of his employment, and acting as an agent and employee of the United States of America.

IV. JURISDICTIONAL PRE-REQUISITES

4.1 Pursuant to 28 U.S.C. §2672 and §2675(a), the Plaintiffs filed and presented the claims set forth here administratively to the United States Marshall Service on November 6,

2020. More than six (6) months have passed since these claims have been presented, and the United States Marshall Service has not issued a final disposition of the claim. Accordingly, under 28 U.S.C. §2675(a), a failure of the Defendant to make a final disposition constitutes a denial of the Plaintiffs²'s claims. Plaintiffs ~~have~~ has complied with all jurisdictional prerequisites and conditions present to the commencement and prosecution of this suit.

V. FACTS

5.1 On March 13, 2019, at 6:53 a.m., Plaintiff Jan Ramirez was bicycling to work in a designated bicycle lane traveling northbound on Virginia Street, in Seattle, Washington.

5.2 Meanwhile, United States Marshall Service ("USMS") employee Jeffrey Hamilton, driving a 2010 Dodge Caravan, traveled northbound in the right lane on Virginia Street in Seattle, Washington.

5.3 At approximately the 700 block of Virginia Street, USMS Hamilton made a right turn into the driveway of the U.S. Federal District Courthouse parking garage, crossing the designated bicycle lane.

5.4 USMS Hamilton failed to keep a proper lookout and failed to yield the right-of-way when he turned and struck Plaintiff Jan Ramirez, ejecting him from his bicycle and causing him to smash into the sidewalk.

5.5 Plaintiff Jan Ramirez incurred serious and permanent injuries, including but not limited to a left shoulder comminuted acromion fracture, soft-tissue injuries throughout his body, and other injuries.

VI. CAUSES OF ACTION

6.1 Plaintiffs-re-alleges paragraphs 1.1 through 5.5 as though fully set forth herein.

6.2 This is a Federal Tort Claims Action for monetary damages sustained by Plaintiffs arising out of the personal injuries to Plaintiffs Jan Ramirez and Erika Ramirez as a result of the negligent operation of a United States Marshal Service vehicle in Seattle, Washington.

6.3 The United States Marshall Service employee's failure to exercise reasonable and ordinary care in operating a United States Marshall Service vehicle on March 13, 2019, caused a collision between the United States Marshall Service vehicle and Plaintiff Jan Ramirez that directly and proximately caused injury to Plaintiffs Jan Ramirez and Erika Ramirez him.

6.4 Defendant's employee USMS Hamilton was negligent when he failed to yield the right-of-way to Plaintiff Jan Ramirez and failed to keep a proper lookout prior to turning the USMS vehicle into the driveway of the U.S. Federal District Courthouse parking garage causing a collision with Plaintiff Jan Ramirez.

6.5 As a proximate result of the Defendant's negligent acts and/or omissions, Plaintiffs Jan Ramirez and Erika Ramirez suffered damages.

VII. DAMAGES

7.1 Plaintiffs re-alleges paragraphs 1.1 through 6.5. As though fully set forth herein.

7.2 As a result of the negligent acts and/or omissions by Defendant described above, Plaintiffs Jan Ramirez and Erika Ramirez suffered injuries and damages, including but not limited to:

- A. Past and future physical pain and suffering;
- B. Past and future physical impairment and disability;
- C. Past and future emotional suffering, humiliation and distress;
- D. Loss of enjoyment of life;
- E. ~~Loss of consortium;~~

1 F. Past and future loss of income and impairment of earning capacity; and,
2 G. Past and future medical expenses.

3 7.3 The aforementioned damages are in an amount which will be proved at the time
4 of trial.

5 **VIII. PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiffs prays for judgement on each cause of action against the
7 Defendant, in an amount to be proved at trial, together with Plaintiffs' costs and
8 disbursements herein incurred, and for such other further relief as the Court deems just and
9 proper.
10

11 DATED this 12th day of July, 2021.

12 SCHROETER GOLDMARK & BENDER

13 *s/ Sergio A. Garcidueñas-Sease*

14 *s/ James D. Hailey*

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